



Response from ICAS

**The role of online platforms in ensuring tax compliance
by their users – call for evidence**

8 June 2018

About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The Board, with its five technical committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.

General comments

2. ICAS welcomes the opportunity to respond to the HMRC call for evidence "The role of online platforms in ensuring tax compliance by their users" published on 13 March 2018.
3. We believe that difficulty accessing the right information is a significant barrier to users of online platforms understanding their tax obligations and complying with them. It is very difficult for non-specialists to locate relevant information on GOV.UK. We also believe that existing guidance needs to be improved and expanded to make it more useful once individuals do locate it.
4. There is considerable scope for online platforms to help users by signposting relevant information and providing users with statements of income generated via the platform. However, HMRC would also need to develop its guidance and provide examples to assist users to understand how it applies to their circumstances. Signposting will only be effective if it takes individuals to guidance which helps them to comply.
5. We do not believe that there is scope for any form of withholding tax to be applied, for direct tax, by online platforms. The UK direct tax system is too complex, and any withholding tax would be likely to prompt a large volume of repayment claims and queries to HMRC.
6. There is scope for voluntary reporting by online platforms, ie where an individual opts to have the platform report their income to HMRC for pre-population into a return. There is also scope for compulsory reporting by online platforms, ie requiring platforms to report information about users to HMRC (in the same way as banks and building societies report interest income). Accurate matching of data would be essential.
7. Our response concentrates on direct tax because there is a separate consultation taking place on a possible split payment mechanism for VAT. We also do not comment on issues arising from the 'gig' economy – again other consultations are in progress, although some of our comments on reporting and guidance could be relevant to some 'gig' economy users of online platforms.

Specific questions

Understanding the current landscape – users of online platforms and tax

Question 1: What helps users of online platforms to understand their tax obligations? Where do users currently seek help?

8. As the consultation document notes in Chapter 2, online platforms facilitate the 'sharing' economy – and connect buyers with individuals or businesses offering services or goods for sale. As a result, more individuals are likely to be in a position where they need to understand their tax obligations, outside a framework where someone else (usually an employer) deals with their tax. However, the underlying tax questions arising are not new.
9. What would help all individuals who are small scale traders and those who are unsure whether their activities amount to trading or not, would be the ability to find clear HMRC guidance quickly. The same is true of those making small amounts of property income. HMRC content on GOV.UK should be a useful source of information but it is currently difficult for individuals to locate the right information to cover their circumstances.

10. As an example, there is high level content on GOV.UK dealing with someone who thinks they might be trading – perhaps selling items online:
<https://www.gov.uk/working-for-yourself>
<https://www.gov.uk/income-from-selling-services-online>

The search functionality on GOV.UK is very poor so it is debatable how many users would find this information easily and the content is not comprehensive – there is other material elsewhere.

11. Historically HMRC also posted guidance (now archived), including some useful examples, on ‘Selling items online , through classified advertisements and at car boot sales’ – this had the advantage of pulling together in one place examples covering moving from a hobby to trading, situations where capital gains tax would be likely to be relevant rather than trading – and the difference between clearing out unwanted items and trading:
<http://webarchive.nationalarchives.gov.uk/20140206160134/http://www.hmrc.gov.uk/guidance/selling/examples.htm>
12. For more detail on the ‘badges of trade’ and some of the distinctions, there is guidance in HMRC’s Business Income Manual – but a non-tax specialist would be highly unlikely to find this or to find it very useful if they did: <https://www.gov.uk/hmrc-internal-manuals/business-income-manual/bim20000>
13. What individuals need is easy access – potentially signposted from an online platform – to relevant sections of HMRC guidance on GOV.UK, with examples to illustrate the guidance and help users to understand how it might apply to them.

Question 2: To what extent do users seek help from online platforms themselves? What evidence is available on how this support is used?

14. We have no comments on this question.

Question 3: What potential barriers do you think there are to users of online platforms in understanding their tax obligations? What evidence do you have about the impact of these barriers?

15. See our response to Question 1 above. The barriers are not unique to users of online platforms but would be similar to those affecting any small traders or individuals who are not sure whether their activities amount to a trade. It may be very difficult for them to find the right information from HMRC to help them to understand their obligations. The same would be true of those earning small amounts of property income.
16. The introduction of the £1,000 trading and property income allowances may not always be helpful in encouraging compliance. Individuals who are compliant from the beginning, when their activities are on a small scale, are more likely to remain compliant. The allowances may mean that individuals are less likely to keep proper records – and may not even realise that they have crossed the threshold. They also may not understand the detailed rules - for example, that the allowances relate to gross income not profit.
17. In some cases, the allowances may be misleading – the trading allowance would have no relevance at all to someone selling items online in a way which did not amount to a trade, who should be considering CGT (and the AEA and chattels exemption). Someone with a hobby which eventually develops into trading is also unlikely to find the £1,000 allowance helpful in determining at what point they cross the threshold – issues around loss relief may also present complications here. The interaction between the property allowance and Rent-a-room relief and some of the other exclusions from the allowance are also unlikely to be easily understood.
18. As noted in our response to Question 1 what individuals need is easy access to guidance which they can apply to their particular circumstances and which helps them to get their tax right. Even where guidance exists, GOV.UK makes it hard to find. We believe that online platforms could play a positive role here because they could provide ‘signposting’ to relevant guidance. However, HMRC would also need to improve the guidance available and ensure that it includes useful examples which help individuals to understand how it applies to them.

Question 4: In what ways do online platforms create new opportunities for individuals or businesses to deliberately avoid paying tax?

19. Some of the opportunities for avoiding paying tax are not new, as noted in the consultation document. However, as noted in our response to Question 1 the facilitation role of online platforms means that more individuals are now able to generate income via platforms, without any intermediary dealing with their tax for them – they therefore need to understand what their tax obligations are and how to deal with them.
20. In some respects, online platforms should restrict opportunities for avoidance: as noted in the consultation document HMRC does have bulk data powers which it can use to obtain information. Trading online generally involves the use of some form of electronic payment system – rather than cash – bulk data powers now cover digital wallets. HMRC has also run successful ‘campaigns’ to target online traders using a variety of online market places – by looking at data gleaned from the platforms and comparing it to records held by HMRC.
21. As noted in the consultation document there are well-documented problems with VAT fraud in online marketplaces – and measures are being implemented to address these. The focus of the present consultation is on direct tax, so we are not commenting on VAT in this response.

Question 5: In what ways do the above issues differ for users who think of themselves as being in business compared to those who do not?

22. Users who think of themselves as being in business are far more likely to realise that they have tax obligations than someone who has previously had their tax affairs dealt with by an intermediary (usually an employer operating PAYE). They are therefore more likely to seek information on dealing with their obligations. However, they are still likely to struggle to find the information they need.

Question 6: What further opportunities exist for platforms to work together with HMRC to help users understand and meet their tax obligations?

23. See our responses to Question 7 and Question 10 below.

Question 7: What data do online platforms hold about their users and their activities on platforms? How could this data be used to help users to understand when they might incur a tax liability from their activity on the platform?

24. As noted in our responses to Questions 1 and 3 we see scope for online platforms to provide ‘signposts’ for users that would take them to information which would help them to understand their tax obligations. However, we think this would also require HMRC to develop its existing guidance and to provide more examples – so that the ‘signposts’ take users to information which is as targeted and helpful as possible.
25. It would be useful to require online platforms to provide users with an annual statement setting out how much income they have generated via the platform. This could be accompanied by signposts/links to information on, for example:
- The £1,000 trading allowance
 - How to decide whether activities amount to trading, or not.
 - Examples, like the archived ones referred to in our response to Question 1 above, to help individuals understand how the guidance might apply to them.
 - If the platform facilitates renting out of a property, or a car parking place the links would be to information on the property allowance and taxation of rental income.
26. Consideration should also be given to a requirement for the online platforms to provide more frequent statements of income to some users – for example, for Making Tax Digital purposes quarterly statements would probably be necessary.

Question 8: What opportunities or challenges are created by users working across multiple platforms or working with platforms indirectly through intermediaries? To what extent does this occur?

27. We do not have any detailed comments on this question – see our response to Question 10 below for comments on one potential issue arising from users of multiple platforms.

Other countries and potential approaches

Question 9: Do you have any experience of these approaches? What evidence do you have about the impact of these interventions?

28. See our response to Question 10 below.

Question 10: Are any of these international examples particularly promising for the UK? How could they be designed most helpfully for a UK context?

29. We do not believe that any form of withholding obligation could be made to work effectively in the UK for direct tax. The UK direct tax system is too complex and would present numerous obstacles to a withholding system:

- Many users making sales via online platforms will not be trading at all but disposing of unwanted items – any tax withheld by the platform will immediately generate the need to file some form of return to reclaim the tax. It would also generate a large volume of enquiries to HMRC, which is unlikely to have the resources to deal with them.
- Similar issues would arise if income would be covered by the individual's personal allowance or was completely covered by the £1,000 trading or property allowances – again generating claims for repayment and queries for HMRC. If the platform withheld tax only from income above the £1,000 threshold individuals trading on different platforms would benefit from more than one allowance.
- Some users selling items online could potentially have a liability to capital gains tax, rather than income tax. However, many would have the full AEA available to cover the gain – for others, chattels relief could be relevant.

30. For similar reasons we do not think that it would be feasible for online platforms to tell users the tax applicable to each transaction (for direct tax) – they would not have the information which would allow them to determine this. Leaving aside the issues noted above, the UK also has multiple rates of income tax (and different rates for Scottish taxpayers) which depend on total income for the tax year – there would be other complications where CGT would be applicable.

31. As outlined in our response to Question 7 we do see scope for online platforms to provide individuals with an annual statement of income generated from the platform – or potentially with quarterly statements. If this was combined with 'signposting' to clear information about tax obligations it would be useful in encouraging reporting and compliance.

32. We also see scope for some form of reporting from online platforms as outlined in paragraph 4.5 of the consultation document. Some individuals would probably find it helpful to be able to opt for the online platform to send the information to HMRC for pre-population into a return – which they could check. This would fit with the long term Making Tax Digital project - but it would be essential to be able to link the data to the correct individual (as with the current project for pre-population of bank and building society interest).

33. As noted in paragraph 4.4 of the consultation France will require online platforms to report information about users direct to tax authorities from 2019. This compulsory approach could be adopted in the UK – it already exists for bank and building society interest – as with BBSI, HMRC and the online platforms would need to be confident that they could match the data accurately.

34. The government is already consulting on a potential split payment system for VAT; because of the way VAT operates (compared to direct taxes) this could potentially succeed in the UK, although the different rates of VAT and the VAT threshold could give rise to difficulties.

Question 11: Are you aware of any platforms that have changed their operating model to account for any changes?

35. We have no comments on this question.

Question 12: Are you aware of any problems or challenges that have been presented by these policies? How could these be overcome?

36. See our response to Question 10.

Question 13: Do you think these policies are effectively targeted? Do you think they apply to the right set of online platforms?

37. See our response to Question 10.

Question 14: Are you aware of additional international evidence or examples? What can we learn from these?

38. We have no comments on this question.